

STATE GOVERNORS IN INDIA

By Sri Prakasa

Pakistan : Birth and Early Days

Education in a Democracy

STATE GOVERNORS IN INDIA

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PREFACE

HAVING had the privilege of serving as Governor at the generous invitation of our first President Dr. Rajendra Prasad, and our Prime Minister Shri Jawaharlal Nehru, of three States—Assam, Madras and Bombay (Maharashtra), I have had my own experiences—both sad and glad—of the office. On retirement from my last assignment in Maharashtra, I was asked from time to time by friends to write about the office of Governor in the public press.

The present brochure will show the limitations and the difficulties of the person who holds the office of Governor. It will also show that the functions that they are called upon to fulfil, have in any case to be performed.

It would be in the interest both of the Governors and of their critics, to ponder carefully over the position as it is, and decide matters for the future, so that Governors may be more usefully utilised than they are today, and conventions evolved so that unnecessary pin-pricks may be avoided and the relations of the Governor with his Ministry may be established ensuring pleasant personal associations among all concerned, as also the smooth running of the administrative machine.

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THE LEGACY

OF all the names given to the holders of the highest executive offices in British times, only one survives after Swaraj ; and that is of the 'Governor'.

In our own languages, the word has been translated as 'Rajyapal' ; but the people know him as Governor, and that is the name by which he is generally called by everybody. In English, the word is of common gender. A woman-Governor is also called Governor. The Sanskrit equivalent 'Rajyapal' is used for women-Governors as well. They are not given the appellation of Rajyapalika, which would perhaps be linguistically more appropriate.

The names of all other high executives have changed. In place of the person who used to be the Viceroy and Governor-General, we now have the President or Rashtrapati. Instead of Executive

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Councillors, we have the Prime Minister, the Chief Minister and other Ministers. In the judicial and legislative spheres, however, not many changes have been made. The Chief Justices and the Judges are known by their old appellations. Legislatures in the States continue to consist of Legislative Assemblies and Legislative Councils. Only the Presiding Officer of the Legislative Assembly is now called the Speaker. In the Centre, the names of the Houses of Parliament have undergone a change.

The Governor, however, remains in his ~~old~~ form ; and the rules and orders relating to him and all instructions regarding his residence, travelling, guards-of-honour and ceremonials, are such that it would appear that the Governor enjoys the same position that he did before.

CONSTITUTION-MAKERS' VIEW

When the Constituent Assembly first started discussing matters concerning the Governor, the idea in the minds of its leaders was that we should accept the American precedent. There the Governor is elected, and he enjoys many executive

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powers. For ourselves, we have adopted the principle underlying the British Constitution. There the Head of the State—the King or the Queen—while enjoying the highest social position and receiving the highest honours, has no power in matters of administration.

In these circumstances, our Constituent Assembly rightly decided that it would be worse than useless making the Governor's office an elective one. No one would be found willing to undergo the heavy expenditure of a contested election when he would be only a Constitutional functionary without any power. Moreover, our Constitution-makers also saw that along with our Independence, various forces are being let loose all round that might sunder the country into bits again, repeating its sad story through the ages.

It is a truism that the country's liberty entirely depends upon the country's unity. If we lose our unity, we lose our liberty as well. Through centuries of foreign rule, and all the insults that we suffered in consequence, we have been able to forge our unity ; and we must not let that go.

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Finally, it was decided that we should have Governors in our constituent States ; but they must be selected or nominated by the Centre. It was also felt that there should be a convention that Governors should not belong to the States to which they were accredited. Their position and prestige should be maintained as a whole, but they would have no power. They would be completely constitutional governors. They would act in accordance with the advice given to them by the Ministry, really the Chief Minister.

That is how the modern Governor of an Indian State was created. In Parliament, in State Legislatures, in the Press and in public meetings, much criticism has been levelled against the office of the Governor. Vigorous attacks have been directed towards the extent and the equipment of Government Houses or Raj Bhavans, and the elaborate arrangements that are made for a Governor when he is on tour.

It is indeed a pity that neither can they say anything about themselves nor have they anyone to speak for them. Even Ministers prefer to keep quiet when their Governors are attacked in the

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Legislatures or the Press. I myself have had sad experience of this.

Very often I have felt that it was being made increasingly difficult for self-respecting folk to accept the office of Governor. We should understand the problem as it is, and find its solution.

FOUR IMPORTANT FUNCTIONS

After having been a Governor for 12 years during which I served in three States, I have a feeling that a Governor has four main duties to perform. They are all important ; and whether they are fulfilled by a person of the name of Governor or by some one else, there is no doubt in my mind that they have to be done.

A Governor's first duty is to know that he is the representative of the Centre, and that he must keep the Centre informed of the affairs of his State whenever he should feel that such things are going on which can endanger the unity of the country. A person coming from outside would naturally be able to take detached view of things which those who belong to the State itself, may

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not be able to do.

The Chief Ministers—human nature being what it is—would naturally be inclined to tell the Government at the Centre that things are as well as they can be, and that there is no danger of any sort. The person acting as Governor coming from outside, may not see things exactly in that way. It would be his duty to tell the Centre that he scents danger.

I have known Chief Ministers telling me that as I came from Uttar Pradesh in the North, I was unnecessarily and unduly frightened over this problem or over that in the South. Things were not as bad as I imagined. In any case, whether right or wrong, the Governor must tell the Centre what his own reactions are over the events that he sees around him. It would be the Centre's duty to act or not to act in the peculiar circumstances as presented by the Governor.

The Governor's second duty is to look after the interests of the State to which he is assigned ; and if he feels that the Centre must step in to help in this way or in that, to meet any difficulty which the State itself is in no position to do, then he

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must tell the Centre as much.

While he is the representative of the Centre, he is the servant of the State. When the Chief Minister or other Ministers go up to the Centre, and make their demands pitching them as high as they can, the Centre is rightly inclined to tell them that it has the whole country to look after, and cannot pay more attention than is possible to the needs of any particular State.

When, however, their own representative in the form of the Governor, writes on particular urgent and pressing matters on behalf of the State, they have to listen—and they do.

The Governor's third duty is to stand in human form, as the symbol of the State before representatives of foreign people. When these come, obviously they cannot talk to walls and floors of buildings. They must talk to human beings.

The Governor, therefore, stands as the embodiment of his State, and receives foreign visitors who may be representing very important departments of their own country's life—administrative or cultural. A Governor must be prepared to meet them on their own level, however high they

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may be, and represent his own State and country in the best light possible.

Finally, in case the Constitution should break down—whatever the reasons may be—he must be prepared to take charge of the whole of the administration of the State. Luckily, I personally have had no experience of the last mentioned duty, but many of my erstwhile fellow-Governors have had to perform that difficult and delicate duty as well. If they had not been available, the States concerned would have grievously suffered.

During the 15 years in the three States where I was sent to serve as Governor by the Head of our Union, I had ample experience of the first three duties. I do not say that only a person called the Governor can fulfil them. One may call the functionary what one likes, but there must be someone to perform these functions.

DAY-TO-DAY WORK

So far as the day-to-day work of a Governor is concerned, it consists of welcoming visitors; attending various functions; visiting many medical, educational and cultural institutions; receiv-

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ing reports of various departments of the State ; knowing about prices of foodstuffs and mortality figures ; attending to his voluminous correspondence ; signing Bills ; nominating various persons to various offices on the advice of his Ministry ; presiding over university convocations ; receiving the heads of State at the aerodrome, railway station or the harbour, and seeing them off ; entertaining guests in Raj Bhavan and performing various social duties as giving parties, dinners and banquets, and attending them when given by others in accordance with the prescribed protocol. Even these duties will have to be fulfilled by someone. Though a Governor may be regarded as having the capacity of spreading out physically over all the rooms and lawns of Raj Bhavan, the fact is that he occupies only a couple of rooms ; and if he has a family, then they are accommodated in another two or three rooms.

VAST PARAPHERNALIA

Raj Bhavans, generally speaking, have a set of four or five rooms which are more or less reserved for the Governor and his family. Then he uses

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his office room for his official work ; the drawing room to receive his visitors ; and the dining room to take his own meal with or without his family, friends and guests.

All the vast paraphernalia of Government Houses that are so much in evidence, are for visitors and guests. Extensive and well-equipped kitchens, overloaded pantries, gorgeously furnished living rooms, darbar and banqueting halls, and everything else that constitute a Government House, are meant for guests and guests alone that come in an unending stream from here, there and everywhere, and entail a tremendous amount of strain on Governors who have to extend to them every care and attention.

If at any time there should be none in the house—and that does not happen very often—then the whole house is empty. It has, however, to be maintained on very high standards of comfort—and even luxury—for purposes of show to all comers ; and all that requires a very large and highly trained staff who must always be alert and vigilant.

All this costs a great deal of money, too ; but

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that money is not by any means spent on the Governor. It is spent on the guests of the country and its Governments, both of the Centre and the State.

If it is regarded as desirable that we should have State guests and do every honour to them, then the paraphernalia of Government Houses will have to be maintained. Governors either make their own arrangements for the feeding of themselves and their families, or pay to the Raj Bhavan account the costs of their feed.

They draw a salary which after the deduction of Income-tax, is really not very much higher than that of a Judge or a Secretary. If, therefore, the Governorship is abolished and all the paraphernalia maintained, then the saving to the public exchequer will be very little, if at all.

GOVERNORS INDISPENSABLE

After an analysis of the situation, perhaps the conclusion will be reached that it is just as well to keep Governors on. If that is the conclusion, then Governors should be utilised. They should not be mere ornamental figures in public places

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and be required—‘ordered about’ may describe the position better—to sign on the dotted line all the time by their Ministers.

They should be given definite functions ; and if they are not so given, then it would be best to abolish the office and to entrust their tasks to a member of the permanent services who would be able perhaps to understand discipline and be amenable to it better than a Governor who may, like the Ministers, come from public life, and may not necessarily feel inferior to them. He may have actually held a higher position outside.

Generally speaking, a Governor would be ‘an elderly person who has had experience of life in various departments of national activity, and who would ordinarily be capable of giving good advice if consulted. When Bills are drafted, when budgets are drawn up, when any serious action is projected, the Governor should, to my mind, be kept in the picture.

Ministers can consult Governors over the Bills that they are proposing to introduce. Very often the agenda of Cabinet meetings come to a Governor after the meetings are over. It is scant

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consolation to him to be told that even Ministers themselves receive these agenda only an hour or two before the meeting. That would only show that Ministers themselves do not study or are not able to study the papers, and are expected to give their approval to everything that is presented to them by the Secretariat.

Problems—and those too of a serious nature pertaining to language, to region, to caste, to religion—which are so much to the fore and about which all States have to be constantly vigilant, should be discussed as situations arise, between the Ministers and the Governors.

I know for myself that Governors could have been helpful if taken in confidence in time and may have even saved difficult situations that have later arisen. It should not be incumbent on the Governor to go through only the Chief Ministers if he wants information on some small though important local matter.

Some Chief Ministers are very sensitive, and do not want the Governor to have any dealing whatsoever with any official of the State except through themselves. Such Chief Ministers

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take unnecessary burden upon themselves—for, in all conscience they are already over-worked—and this process only delays matters which could be dealt with expeditiously.

Governors can be asked to look after the well-being of minorities; the safety of the educational structure; social service of the handicapped and the depressed. They can be utilised in propagating and making popular the policies of Government, for while Ministers generally meet only those who have some work, Governors are meeting all classes of people in social spheres who talk to them without mental reservations or expectations of favours.

Their constitutional status will be maintained. They will not be interfering with the decisions of the Ministry, but would thus become active helpers and participants in the task of governance; would play a useful role in the scheme of things; would have their time fully occupied; and they would not have to be creating work for themselves as they not unoften have now to do; and would be in direct touch with the Government instead of knowing what is going on, only from

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newspapers as the rest of the world does.

The cause, therefore, of the Governor is the continuation of the tradition of British times, and his cure is either in his abolition, or the giving to him of definite duties and responsibilities which he should know he has to shoulder.

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ROLE AND RESPONSIBILITY

WHEN Swaraj came, there were mostly European and a very few Indian Governors functioning. In the beginning of the new arrangements, the old traditions persisted ; but soon afterwards new Governors were appointed, and it became incumbent for them to act according to the new directives. Human nature is always stronger than human ideals and aspirations ; and almost all the new functionaries found it difficult to adjust themselves to the new alignments

It is a matter of great satisfaction, however, that not much conflict was witnessed ; and that almost everyone realised his duties and responsibilities, and was seen working in a proper and harmonious manner. It cannot, however, be denied that now and then some folks thought of their rights as well, and then difficulties arose that were almost inevitable.

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At the time of the establishment of Swaraj, Lord Mountbatten was the country's Governor-General, and we accepted him as free India's as well. Our Constitution was not ready by then ; but because of the instinctive political sense of the Englishman, and seeing the shadows that coming events were already casting in front of him, Lord Mountbatten turned himself voluntarily into a constitutional Governor-General.

Because of the close personal friendship between him and the Prime Minister, Mr. Nehru, Government continued to function in an efficient and harmonious manner in those very difficult days ; and the Governor-General and the Prime Minister received each other's assistance and sympathy to the full. I became the Governor, for the first time, of Assam. Lord Mountbatten had gone by then, and Mr. Rajagopalachari was our Governor-General. It was he who had signed my Letter of Appointment.

Sir Akbar Hydari of the Indian Civil Service, was the Governor of Assam when Swaraj came. Owing to his premature death, I was sent as his successor.

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When I went to Assam, I realised for the first time how important and strategic was this, our north-eastern State. It is surrounded on all sides by foreign countries—Tibet (China), Burma and Pakistan. A narrow thirty-mile corridor is all that connects it with the rest of the country. In the hills here reside a variety of people designated as tribes. The legendary and historical stories of this State are in a class by themselves. It is beyond the power of man to describe the beauty of the hills, dales and plains of this wonderful State.

Persons living in other parts of the country are almost entirely unfamiliar with Assam, known also as Kamarup (with a people capable of taking on themselves and giving to others mysterious forms at will). The Chief Minister and his fellow Ministers have indeed always been faced with difficult and delicate tasks. It was due to the insistence bordering on satyagraha of Assam's first Chief Minister, Mr. Gopinath Bardoloi, that Assam was saved from going to Pakistan.

The Ministry from the start seemed to feel that the new Governor, though unknown to the

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place, was trying to understand the problems and difficulties of the State, and that he was anxious to help as far as he could. They also felt that as he had been a colleague of the leaders in the Centre in the struggle for freedom, and as he was very friendly to them personally, he might be able to get assistance from the Government of India that they felt had been more or less indifferent to the needs of their State so far.

For a Governor, a feeling like this in the Ministry is a source of great strength and encouragement. If the Ministers knew that the Governor was their friend, that he was a well-wisher of the State, that he was influential with the Central authorities, that through him adequate assistance could be secured, then his task becomes comparatively easy and there is continual co-operation between him and the Ministry.

Moreover, the new Constitution had just then come into force. I was actually in Assam when it was adopted. Everyone was enthusiastically anxious to make it a success. No occasion arose in my time where any constitutional difficulties could be experienced. At that time, Governors enjoyed a

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high position in the warrant of precedence and in the formalities of protocol. In British times, Governors were regarded above the Executive Councillors of the Centre. Ministers today have taken the place of these very Executive Councillors. Formerly the position of State Governors was higher than that of the Central Ministers. Now it has been brought lower to them except in their own States.

In continuation of the old traditions, even today—as is but natural and right—Central Ministers are made Governors; but instead of this meaning promotion, it really is in the nature of demotion. I have been told that the Central Ministers are the Government of the country, and so their position is higher than that of Governors. Here begins the deterioration of the position of the Governor.

As time passed, everybody came to feel that a Governor was a powerless person meant for exhibition in places of festivity and amusement. Indeed he occupies a useless office and the money spent on him, entails injustice on the general tax-payer. It is all fruitless waste. Formerly a great

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deal of negotiations between the Centre and the State Government went through Governors. Chief Ministers were anxious to have their assistance on various matters. They sent their messages to the Centre through their Governors.

By slow degrees, however, the Centre started keeping direct relations with the State Governments. It forgot the Governors whom it had itself created. The newspaper-reading public read almost every day that various State Ministers were going to Delhi for advice and guidance. Governors were not even informed of what was troubling the Ministers. I remember the Governor of one State once writing to me when I held that office in another State, that he did not understand why his Ministers were making daily pilgrimages to Delhi.

Far from being consulted as to the persons who should constitute the Ministries, Governors are not even informed as to who are being thought of as Ministers. All such matters are decided after consultations directly with Delhi. Governors are asked at the last moment to administer the oath of office to the persons concerned, since the

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Constitution enjoins that they alone can perform this duty.

Both in Assam and in Madras, I found in the early days, that Chief Ministers used to consult the Governor about the Ministers they were intending to take. Not unoften they took one or two Ministers on the advice of the Governor even if they had not thought of them themselves. Ministers used to consult the Governors regarding nominations to various offices.

CONVENTIONS DISAPPEAR

As time passed, all these conventions receded into the background. When the Centre itself gave no importance to Governors, when it itself became indifferent to them and kept direct relations with the Ministers in the States, then it was natural that distance should be created between the Ministers and their Governors. Their mutual meetings also became few and far between.

This had its reactions on the Secretariat. The language of the notes on the files by the Secretaries, started taking a form not too pleasing. Conventions have yet to be evolved to ensure pleasant

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mutual relations between secretaries, Ministers and Governors. It is necessary that this should be done as early as possible both for good government and good feelings between the persons concerned.

Secretaries have been known to write on a file : 'Since the Governor is only a constitutional one, therefore.....' When the file like that comes to the Governor who may himself have been a member of the Constituent Assembly, and helped in the drafting of the Constitution, he realises with a shock how much he has still to learn of the principles underlying our Constitution with the help of secretaries !

Some secretaries have gone even so far as to note on files that subordinate authorities will not follow the instructions of the Governor in some particular matter. The Ministers themselves appear helpless in situations like this. Governors have, therefore, often felt utterly confused not knowing what to do. They can always resign, but that is not always the most graceful thing to do.

It is the opinion of legal experts that wherever the word 'Governor' occurs in the Constitu-

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tion it should be taken to mean ‘Government’. In other words, whatever the Governor wants to do, he can do only with the advice and consent of his Chief Minister. The greatest difficulties are experienced particularly in the matter of universities. Universities are established under special Acts of the legislature. The Governor is designated therein as Chancellor of such universities.

The work of the universities is carried on according to the relevant Acts, and not according to the articles of the Constitution of the country. Governors on the one hand, and their Chief and Education Ministers, on the other hand, have often come in conflict with each other over university matters. In such situations, Governors have gone to the Attorney-General for legal advice. The Attorney-General has almost always given as his carefully considered opinion, that universities should be governed according to the Acts that had established them.

Even though according to a University Act, the Governor is the Chancellor, he is thereby put in the same position as anyone else would be who had been designated the Chancellor according to

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the Act. In other words, the Chancellor being the Governor, does not entail on himself the limitations imposed on him by the Constitution *qua* Governor. This opinion has been repeatedly asked for and repeatedly given; but the state secretariats are still considering the matter, and the situation remains where it was before.

Some Chief and Education Ministers are of opinion that the Governor-Chancellor should consult his Vice-Chancellor when nominating members to the various university bodies. They feel that when these bodies are largely filled by election from various constituencies, the Vice-Chancellor is likely to be hampered in his work.

In these circumstances, if the nominations made by the Governor are on the recommendations of the Vice-Chancellor, then the Vice-Chancellor would be facilitated in his work for such persons would, generally speaking, support the Vice-Chancellor. Some think that Governors should make nominations on the advice of the Ministry so that the Government may also have a hand in the working of universities. Others think that the Governor should be entirely guided by

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the Education or Chief Minister, and nominate only those who are recommended by him.

ANGRY CM'S CHARGE

An angry Chief Minister had even noted on one occasion that he found that the 'Governor appeared to have more confidence in the Vice-Chancellor than in his Chief Minister.' Some Education Ministers think that the Governor-Chancellor should not do anything at all in connection with the universities without taking their prior consent. In fact, he should consult them even in the matter of fixing dates for holding of meetings of various university bodies and of convocations.

In this connection, letters have been received by Governors, the language of which has been far from happy. So far as the appointment of Vice-Chancellors themselves is concerned, the Ministry claims absolute power in the matter, and thinks itself to be authorised to disregard the recommendations of the relevant university bodies in this behalf.

A piquant situation arises for the Governor.

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If he supports the university, he incurs the displeasure of his Ministry who would take other steps to get its views respected. If he acts according to the wishes of the Ministry, he is subjected to the criticism of interfering with the autonomy of the university, and may appoint a Vice-Chancellor who receives no co-operation from his colleagues.

There is, however, no doubt that Ministers definitely say that in such matters, they can give no authority to Governors. Curiously enough, no one criticises them because the appointment letter bears the signature of the Governor. He has to bear the brunt of public censure, while the Ministers themselves are untouched and make no public declaration of their responsibility either.

Vice-Chancellors, in their turn, think that Chancellors are only constitutional, and so they must abide by their advice. Chief Ministers think Governors being constitutional—and as they are Chancellors of universities only because they are Governors—they must abide by the advice of Chief Ministers even as Chancellors. Thus they become constitutional both for the Vice-Chanc-

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lor and for the Chief Minister.

The question that faces the constitutional pundit is : When there is a conflict in the advice given on a university matter, by the Vice-Chancellor on the one hand, and by the Chief Minister on the other, what is the Governor-Chancellor to do when he is both a constitutional Governor and a constitutional Chancellor ? His position becomes very complicated indeed.

The Governors have had sad experience of this, and I would earnestly plead that, since healthy conventions are not being evolved, University Acts and principles underlying them should be carefully examined, and some authoritative decision taken so that the self-respect of the various functionaries might be maintained, and there might be no obstruction in the proper discharge of business. I know that one Vice-Chancellor went so far as to write that ‘nothing good could be expected from the sort of persons that are being appointed as Governors these days.’

In other words, what he really meant was that Governors are selfish hankers after office, and have been appointed because they are mere-

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flatterers of those who are in authority at the Centre. They are mere slaves of Chief Ministers. What good can universities expect from them ? In this case, the Vice-Chancellor and the Chief Minister were at war ; and the Governor had to suffer this onslaught as it was he whose signature was finally required on all papers. Then there are various clubs and associations in the state in which the Governor holds a position *ex-officio*. He is given the right according to the rules, to nominate some members. Some Ministers think that a Governor should make even these nominations only with their advice.

Formerly Governors were invited to take part in many social and cultural activities, to lay foundation stones and open buildings. Even this is now becoming less and less. Institutions usually look for financial assistance when they invite Governors. When, however, they realise that Governors can give no help to them, they very rightly and naturally drop them. It is regarded as pretty useless inviting them to such functions. Now Ministers of the Centre or the states are invited to them.

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When I was in Madras, I was often entrusted with the task of going up to the harbour to receive or see off our soldiers who had been deputed for some important work abroad. I was also asked to read out messages of the Prime Minister to them. By the time I reached Bombay, I found that even for such matters, the Ministers of the Centre alone were in demand. Even the social and cultural activities in which Governors partook are now being taken away from their hands. Their position is deteriorating day by day.

Before long, there would be few left to do them honour from the official side. According to the Warrant of Precedence, their position is fairly low. The Centre has evidently no need of them. The Ministers in the states want them merely to do as asked. They do not want any advice from them. The Secretaries because of their knowledge and experience of which they are justly proud, regard Governors as knowing nothing or at least persons of no consequence. Their position is indeed difficult and embarrassing, to say the least.

Despite all this, it is doubtless a matter of great joy and satisfaction to Governors—and this

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is no small thing—that even if the rulers of the land have no need of them, the general public likes them. The non-officials welcome them, respect them and feel honoured at meeting them. Sometimes, Ministers and Secretaries want to interfere even in such contacts between the Governor and the people.

Luckily so far, Governors have not allowed themselves to be regulated in such personal matters by the whims of Ministers and Secretaries. Governors derive a great deal of strength and encouragement from the love and support given to them by the non-official public. How long this is going to last is any person's guess.

In any case, the whole position has to be very carefully analysed and studied, and some definite decision taken so that everyone should know where he stands. Whenever I wrote about the difficulties of Raj Bhavans to the then Home Minister, Mr. Govind Ballabh Pant, and begged him to remove them, his only reply was that as such matters have to go before Parliament; and as it is no secret what members of Parliament think of Governors, he was not prepared to go

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before them only to witness unseemly scenes and listen to harsh words.

No useful purpose, he felt, could therefore be served by proceeding with the matter which must remain where it was. Many wrongs could, therefore, not be righted even when they referred to subordinates and Class IV servants of Raj Bhavan establishments, in the matter of pensions and allowances.

Parliament is the supreme master of the land ; and if its feelings are what Pantji thought they were, then it is time the office of Governor was abolished. If, however, it is to be retained, the duties and responsibilities of Governors should be definitely prescribed so that all may know what is expected from them and how they are to conduct themselves.

3

ROLE IN CRISES*

SOME controversy took place regarding the action of the West Bengal Governor in carrying on the administration through a Ministry after the sudden death of the Chief Minister, Dr. B. C. Roy. Miss Padmaja Naidu, the Governor, is reported to have asked the senior-most member of the Cabinet to be the acting Chief Minister till a permanent incumbent was appointed. The only precedent to meet such a situation that she had before her, since the advent of Swaraj and new Constitution, was that of Bihar when Dr. Shri Krishna Sinha, the Chief Minister of the State, passed away. Different politicians and constitutional experts appear to be divided in their opinion as to what should be done in these circum-

* This was written when there was some public criticism of the action taken by Miss Padmaja Naidu, Governor of West Bengal, on the sudden death of Chief Minister Dr. B. C. Roy on July 1, 1962.

stances.

Some commend the action of Dr. Zakir Hussain, Governor of Bihar at the time, who, it appears, asked his senior-most minister to form a care-taker Government and carry on the administration. The Governor of West Bengal actually appointed her senior-most minister as acting Chief Minister. I personally see no difference between someone being asked to head a caretaker Government to assist him and another to get similar assistance as acting Chief Minister. The law, they say, is an ass ; and there may be found fine points of differentiation between the two no-menciations in the minds of learned lawyers. The unsophisticated public can be scarcely interested in the controversy, if any.

Anyway, perhaps an experience of mine in not such tragic circumstances, but certainly in an embarrassing situation, may be interesting. I hope, I am not divulging any secret when I talk of what was perhaps the most interesting as well as a most trying experience of my political life. I may be excused for referring to personal matters. When I went to Madras as Governor in March

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1952, the political situation there was in a most foggy condition. The Maharaja of Bhavnagar who was Governor there, had resigned, and had been pressing the President to release him as early as possible. The general elections had just taken place; and the results had left no party in a majority in the State Legislative Assembly. The Chief Minister, Mr. Kumaraswami Raja, along with a large number of his colleagues, had been defeated at the polls. The Ministry had, therefore, resigned, but was asked to carry on till a proper one could be installed in its place. According to the Constitution, persons can remain Ministers for six months without being members of the Legislature.

I had arrived at Madras on the evening of March 10, and was to be sworn in as Governor on the morning of March 12. I had come earlier to have talks with the retiring Governor and the Chief Minister so that I could understand the situation, and have some advice from them as to how to meet the same. I found to my deep sorrow that they felt that they were not in any position to express any views on the situation as it

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was, and that I must think out matters myself and do the best I could. Some elderly folks who came to see me, told me quite definitely that the only thing I could do was to advise the President to suspend the Constitution and take the Government of the State in his own charge. Another advice given to me was that I should dissolve the Legislature and ask for new elections.

It would be useful to recall that in a House of 375 members, the largest party after the elections was the Congress with 155 members. If I am not making a mistake, there were 61 Independents and there were various groups bearing the labels of Krishak Mazdur Praja Party, Communist Party, Krishikar Lok Party, Commonweal Party, Socialist Party and others. Since no party enjoyed an absolute majority, the problem before the Head of the State was indeed a difficult and baffling one. I was naturally anxious neither to advise the Centre to suspend the Constitution for the great State of Madras, nor would I have been justified in having general elections again, so soon after the one that had taken place. I felt as others must have also felt, that the party

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having the largest number of members in the elected Assembly, should be given a chance to form a government. As is well known, there are many persons everywhere, not excluding the Legislature, who are willing to join whomsoever might be in power. With a large number of Independents in the Assembly, it was quite on the cards that the party in power would be able to attract a sufficient number of them as well as members of other groups to give it an absolute majority. It was clear that if any party was to be given a chance it must be the one that had the largest number of members at its command.

The situation was made still more difficult for me because Mr. T. Prakasam, who had been the Chief Minister of Madras on many occasions before and whom I had known well as a fellow-Congressman, sent me a list of 167 members of the Assembly who, he said, had formed a new party—United Democratic Front—and peremptorily asked me to invite him to be the Chief Minister. My reply was that I could not recognise a new party which is formed after the elections and before the Legislature meets. I must go by the

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nomenclatures that the different parties gave to themselves at election time. If the new party defeated the Government I formed, then I could give it the consideration that would then be its due.

Though I was quite clear in my mind that the Congress, having the largest following, should be invited to form a government, I did not know whom to call to be the Chief Minister. I could know from the rumours that were floating about, that it was being instinctively felt that the only person who could save the situation was the great elder statesman, Mr. Rajagopalachari. I was not at all sure if he would agree to take this office after having held offices of a Central Minister and Governor-General. I was also very doubtful if he would agree to come out of his well-earned retirement, and enter into stormy controversial politics once again. Then he was not a member of any Legislature either.

Later I came to know—all through rumours for no one in any responsible position would come and tell anything to a total stranger like me --that the Congress High Command had been

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consulted, and had said that they had no objection to Rajaji being the Chief Minister provided he got himself elected to the Assembly. I believe many persons were willing to vacate their seats for him if he should agree to stand.

However carefully the law of the Constitution may be framed, it is just impossible to provide for all possible situations or contingencies. That is why I presume that persons are appointed to various offices in whom convention reposes what may be called residuary powers so that these might be exercised when there should be no specific provision in the letter of the law for meeting a particular situation. Both Dr. Zakir Hussain in Bihar and Miss Padmaja Naidu in Bengal faced the situation that arose before them, and I think they both dealt with it most successfully and properly, as fully justified by the events that followed. Despite all objections that might be taken to what one or the other did, I myself do not see what else they could have done if their States were to be saved from chaos.

For myself, when I found myself in the position just described I decided to call on Rajaji for

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whom I always have had the highest respect ever since I was privileged to know him at the Gaya Congress of 1922, both for his advice and his assistance. It so happened that just as I was about to step into my car to go to him, he himself arrived. Evidently people had asked him to stand for election and were hoping that he would agree to be the Chief Minister. They may have decided to send word to me to this effect afterwards either through the Chief Minister, who was continuing in office, or get some directive conveyed to me from the Centre itself.

I might add here that in the three weeks that followed my taking charge and the installing of a new Government, I went to the Secretariat more than once to see things for myself. I found all the Ministers who had been defeated at the polls, very disheartened and disspirited and scarcely taking any interest in their work. What was worse, I found the whole lot of the Secretaries almost in despair, thinking that all was over, and that their great State was on the brink of ruin.

I gathered from what Rajaji said to me at the time—and he was in an angry mood such as I

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had never seen him before—that he was willing to come to the rescue of the State if desired, but he was not willing to stand for any election. I fully sympathised with him for I also felt—and feel—that a person like him should not be thrown in the vortex of contested elections. I was given to understand that the Congress Legislature Party that was meeting soon afterwards was going to invite him to be its leader. For myself I was desiring that the person who is appointed such leader should, before he is so appointed, be a member of a Legislature. I, therefore, asked Rājaji if he would be pleased to accept my nomination to the Legislative Council. [According to the Constitution, 12 persons, eminent in various departments of national life, are nominated to the Council.] The possibility of nomination had not occurred either to Rajaji or anyone else.

I have personally always felt sorry that the Upper Houses of our Legislatures should not be given the dignity and importance that they deserve. I, for one, see no reason why Chief and other important Ministers should necessarily be members of the Lower House and not the Upper.

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I do not think we need follow the conventions of the British Constitution at all in this regard.

Anyway, when I suggested this to Rajaji, I was glad that he sat up and said to me that he would surely accept the nomination, for certainly such nominations were meant for persons like him. Convention requires that Governors should make such nominations on the advice of Chief Ministers. As the then Chief Minister was not prepared to give any advice on anything, I had to act on my own. Rajaji's name along with the names of three others were immediately publicised as the Governor's nominees to the Legislative Council. The names of the remaining eight were to follow. As Rajaji did not want his solitary name to be announced, we discussed a few names and felt it would be all right if only four persons were then nominated to begin with. Later the same evening, I was informed that he had been elected the leader of the Legislature Party. I then formally invited him to be the Chief Minister. Soon he was able to collect a very strong, able and devoted team of colleagues and the Government of Madras started functioning in full vigour and efficiency almost

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immediately. Everybody was at its post of duty ; and feeling that all was well with the State, started putting his best in its service.

I need not refer in detail to the aftermath. There was some flutter in the dove-cotes of Delhi, but it soon subsided. Mr. T. Prakasam never excused me ; and when I went to open the joint session of the new Legislature, he would not allow me to speak. He insisted on making some statement in which he used hard words both for Rajaji and myself : and then walked out with a large number of his followers. The Communist Press was angry with me even long after I had left Madras saying that the Governor had no business to interfere in a matter like this, and that non-Communists always so manoeuvre things that Communists might never come into power at all.

To my mind, it is clear that a Governor if he is worthy of his salt, must come very prominently in the picture whenever there is any serious situation that might threaten the safety of the State and its Government. I do not know what else he is there for, however constitutional he might

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be. It is no use always going up to the Centre for advice and guidance in all great and small matters. That would be putting too much of a strain on the Centre for one thing ; and it would also mean abdicating functions and responsibilities that must be borne by persons in local charge.

I think the Governor of West Bengal did the right thing at a difficult time. She had always carried herself with great grace and dignity in her high office, and has given every satisfaction to all concerned. As one who was a fellow-Governor of hers for long years, I am happy to be able to pay my tribute to her here for all her great and good work.

THE ANNUAL CONFERENCE

ONCE every year at the invitation of the Union President, the Governors of the country's constituent States gather at Delhi for a conference. The Lieutenant-Governors of the smaller States also come. The President's Secretariat is good enough to inform the Governors months beforehand of the dates fixed by the President for the conference so that they might reserve those dates for the same and make no other engagements for them.

The invitation of the President also includes one for the wives of Governors. As the pressure on space is great at the time even in the huge Rashtrapati Bhavan when very nearly twenty dignitaries have to be accommodated, the President's Secretariat takes care to inform the invitees that they are not to bring more than one secretary or aide-de-camp with them.

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There is a set agenda. The conference session begins with early morning photographs first of the Governors and then of them along with their aides. Enterprising photographers representing newspapers of whom there is quite a number, take photographs of their favourite Governors as they arrive or are talking with their fellow Governors. The President, the Vice-President and the Prime Minister are also there, and these also kindly sit with the Governors for the photographs.

Then the party marches to the conference room—really the room where the nation's Cabinet also meets. Under blinding flood lights of cameras, further photographs are taken as the Governors along with the President, the Vice-President, the Prime Minister, as also the Home, Finance and Planning Ministers settle down to work.

The agenda speaks of the President's opening speech ; Governors' review of the law and order and economic position of their States ; the position of Governors ; and the Prime Minister's review of the international situation. A day before the conference, the Governors meet in an informal

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get-together to greet each other and to take counsel among themselves regarding difficulties that they might be experiencing with regard to the running of their Raj Bhavans and allied matters.

If they have anything to say, they can do so when the subject of their own position comes before the conference. As the conference formally opens, the President reads out his prepared speech welcoming the Governors to their annual meet, and giving his own review of the situation in the country and the world at large. Though not on the agenda, he then calls on the Home, Finance and Planning Ministers to give an account of the working of their departments to help Governors to know the situation in the country as a whole in the matter of law and order, social and economic progress.

Sometimes the Law Minister with the Election Commissioner also comes in if some laws, particularly dealing with elections, are being discussed, and the Defence Minister with the Chief of the Army Staff may be called in to explain to the assembled Governors the position on the frontier vis-a-vis China or Pakistan.

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After the Ministers have spoken, the President calls on each Governor in turn, to give an account of his own State. The Governors are seated in order of seniority; and one after another they tell what they want to regarding their States. The Lieutenant-Governors come after all the Governors. In the three-and-a-half-hour morning session, not many Governors finish with their statements before the conference breaks up for lunch at the Prime Minister's House. All Governors and their wives are invited. There is again a two-to-three-hour session in the afternoon. Though law and order and the economic situation are put separately on the agenda, they get mixed up as the Governors speak. All the speeches of Governors are practically over on the first day.

In the night there is the President's banquet to the Governors. A large number of guests are invited, particularly the Central Ministers. They all gather in the Reception Room before the President arrives, and there are many reunions and recalling of 'old and happy' days. The President comes in state with the usual fanfare when the national anthem is sung. He shakes

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hands with everyone who are lined up to greet him, and the party marches to the magnificent banqueting hall decorated with life-size portraits of old Viceroys.

This meal is not without its 'heart-aches' regarding protocol. As we like to follow European precedents in everything and are not able to evolve our own distinctive system, we too have this annoying protocol business. The seating arrangements at the banqueting table are in accordance with the dictates of protocol. Wives and in their absence, the head lady of the respective households, take their position in accordance with that of their husbands, father or father-in-law as the case may be.

In the old days of the British, Governors came above the Central Ministers who have taken the place of the old Executive Councillors. Governors remain where they were. When Swaraj came, Governors continued to be put above the Central Ministers who really succeeded the old Executive Councillors. Later, however, they were brought down in the scale, and are very much behind the Central Cabinet Ministers.

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Governors, I know, have not been very happy at the position. At their informal meetings on the eve of the conference they discussed the situation, and made representations in this behalf at the Governors' conference table. As usually Governors are and will continue to be recruited from Central Ministers, as they were in the old days from the Central Executive Council, their position should be higher in the warrant of precedence. Governorship for a Central Minister should not mean demotion in the social scale. They have felt that even if they are not put above, they should at least be on the same level as the Central Ministers, each taking his place according to seniority. The highest authority in the land, however, laid it down that as the Central Cabinet was the Government of the land, its members are higher than Governors ! The argument, however, applies only to Cabinet Ministers, not the State or deputy ministers, as logically it should. As matters stand, the Governor is higher in his own State—one wonders why?—than the Central Minister. Everywhere else, however, the Minister takes precedence.

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The result is that at the President's banquet, though it is given to the Governors who thus are the chief guests, they are actually seated below the Ministers. Their voice in this behalf has gone unheeded. As it would be gross courtesy for Governors to ask to be excused when the President invites them, they go to the banquet, but are not too happy over it. Perhaps the impropriety of the situation will be appreciated by the powers-that-be—really the Prime Minister who is the sole and final arbiter in all matters of State—and by Governors, totally neglected and belittled as they are.

When heads of foreign states are given banquets by the President, they get high seats at the table. Why should we honour foreigners more than our own people, passes my comprehension. That has always been our fault. That is why we have never been able to become a really self-confident, self-reliable and self-respecting people. We must get out of these bad old complexes if we really mean business.

Year after year, at the Governors' conference, I fought for Governors being placed at least in

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the same category as Cabinet Ministers, so that the two could take rank in accordance with their seniority amongst themselves. I did not succeed. Though two Governors, after a particular Conference, were good enough to tell me that what I was espousing was correct, and thanked me for my advocacy at the Conference table itself, nobody raised his voice in support of me.

At the last Conference that I attended, that was in 1961, when I brought this matter up again, the late Prime Minister was visibly annoyed and, thumping his fist on the table as was his wont, he said that the Cabinet Ministers are the Government of India. They are superior to the Governors ~~DAM~~n it !

I was first taken aback, and I felt that a Governorship was no place for me. If I were not going out of office in two months' time from then, I might have resigned. The President Dr. Rajendra Prasad also expressed regret at this situation, but pleaded that one should not mind, for after all we are all friends and old colleagues and comrades.

The proceedings of the Conference on the

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second day are rather dull. All the Governors having already spoken, their dissertations of the law and order as well as economic situation of their States having got mixed up ; their talk about their own difficulties regarding their Raj Bhavans having been rather absent-mindedly listened to if at all, and at least, referred to the Home Minister, the Prime Minister gives a review of foreign affairs.

Though the President's Secretariat takes care to inform the Governors in its preliminary notice itself that they should make no engagements on the third day as the conference may continue, actually it breaks up early on the afternoon of the second day. The Home Minister usually gives a lunch that day. The Prime Minister's speech is practically the only item left on the agenda for the afternoon of the second day if even that. The President is good enough to meet Governors individually as well in the course of the three days or so that Governors stay at the capital ; and then they all part happily.

The President invariably permits Governors to visit their homes before returning to their

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States. By convention a Governor of one state comes from some other. They are glad to avail themselves of the President's courtesy to pay a visit to their homes before going back to their own State capitals.

Some may ask if all this is worthwhile at such enormous expense. I, however, feel that even if no serious business is transacted at the conference, it is good for Governors to meet the President and fellow Governors at least once a year. They have then opportunities of meeting the Prime and Home Ministers also. They are able to get a good idea of the country as a whole, and also know what the Centre thinks of them, and the amount of care it is willing to bestow on their individual States.

Having attended a dozen such conferences in the past, I cannot help feeling interested in the meetings of Governors and following their proceedings as far as they are published in the press with a certain amount of curiosity. I am also definitely inclined to feel that these conferences can easily be made more useful than they are, and Governors themselves enabled to serve a better purpose

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than, I fear, they are allowed to do today, torn between the Centre that is anxious to concentrate all power in its own hands, and the Chief Ministers who feel that the Governor should come as little in the picture as possible. Healthy and helpful conventions have still to be evolved, and the sooner they are done the better for the individuals concerned and the welfare of the country as a whole.

5

GOVERNORS AND AMBASSADORS*

It was announced some time back that the Government had offered the post of India's High Commissioner in Ceylon to Mr. Bhimsen Sachar, and that he had accepted it. Later, it was stated that he had declined the assignment on the ground that, having been a Governor of a State in the Union—he is actually a former Governor of two States : Orissa and Andhra Pradesh—he should be given a special status even as High Commissioner, and enjoy the privilege of corresponding direct with the President and the Prime Minister, and not be required merely to be in touch with the Secretaries of the External Affairs Ministry.

* This article was written in May 1965 when Shri Bhumsen Sachar, a former Governor of two States, felt embarrassed when offered the High Commissionership of Ceylon, and desired to make sure of his position in view of his earlier assignments.

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It would appear that the Government, for fear lest they should deprive themselves of his services, agreed to grant him his demand. Thus Mr. Sachar has now taken up his new post in Ceylon.

The whole episode must have brought a smile of amusement to the lips of many ; others might have also had a cynical comment or two to offer on the subject.

It stands to reason that a person who accepts a job must accommodate himself to its limitations as much as settle down to the enjoyment of its privileges. He cannot claim any special treatment because he has held some particular office in the past any more than he need submit himself to any of the disabilities that the earlier post imposed upon him.

Our first Indian and last Governor-General, Mr. C. Rajagopalachari, later became a Union Cabinet Minister and then Chief Minister of a State. Governors have also become Cabinet Ministers or Chief Ministers. I do not think any of these, when they agreed to take up their new offices, ever thought of claiming any privileges that they might have enjoyed in their earlier

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assignments.

Why Mr. Bhimsen Sachar's mind should have worked the way it did is something that I, an old friend and colleague of his, find it difficult to understand or appreciate.

It seems to me that Mr. Sachar has unnecessarily entangled himself psychological complexities. For instance, as High Commissioner of India in Ceylon, he will naturally have a status lower than that of Ambassadors and High Commissioners senior to him, that is, those who had been posted there before he arrived on the scene. He would not be able to claim from the Government of Ceylon a higher place in the Warrant of Precedence simply because he had formerly been a Governor of two States of the Indian Union. Then, if a conference of all heads of our diplomatic missions should be called, say, in Delhi, there too his place would not be that of a Governor, but that of a High Commissioner ranking below his seniors in that particular office.

It is, therefore, difficult to understand what exactly is meant by his having been granted the status of a Governor even as High Commissioner.

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If he claims a higher status than anyone else in his position would be entitled to either in Colombo or in Delhi, he would probably be denied it, because persons in charge would not submit to the demand. If he should be accommodated, he would unnecessarily earn for himself the displeasure of his colleagues, who would only feel hurt and annoyed.

To my mind, it is best not to worry about such matters, but to fulfil one's duties and responsibilities to the best of one's capacity in a spirit of public service, and let honours, if any, come without the asking. In the country, as it is situated today, we find very often that honours come unasked to the great embarrassment of the recipients, and they refuse to come anywhere our way when we look out for them and claim them as our right.

All this apart, what I am anxious to understand is what exactly is the status of a Governor of an Indian State.

Mr. Bhimsen Sachar may be satisfied with the *de facto* status accorded to the Governor—whatever the *de jure* position may be I for one am not

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satisfied. More than once I had almost resigned, but my personal regard for the late Prime Minister Mr. Nehru restrained me. I did however tell his successor, while he was Home Minister that nothing could induce me to accept the office again once I had divested myself of it.

I have been a High Commissioner too, and I can assure Mr. Sachar that it is a delightful office. One exercises in that post much more freedom and discretion than one does as Governor. If I were not 75 years of age and did not feel weak and old as I do, I should not have turned down the offer of Prime Minister Lal Bahadur Shastri for a diplomatic assignment abroad.

I may add here that I honestly believe that it is time for everyone to withdraw from active responsible office carrying a rich monetary compensation after a certain age, so that others may have a chance. On grounds of general principle, too, I do not favour elderly persons being placed in jobs which should really be held by younger persons.

The office of a High Commissioner or Ambassador, which makes one the head of a

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diplomatic mission abroad, enables one to help one's own nationals in the land of his assignment and also enables one to rub shoulders with the representation of other countries and to understand them and their aspirations. He can really help his country, being more or less unfettered, by representing it properly and by presenting his own people, his traditions, his culture, his way of life to others.

From what I myself know I am not satisfied with the way our diplomats abroad conduct themselves. They are not as helpful as they should be to their own visiting nationals and they sometimes behave in a manner that does not do much credit to their country.

I am happy that Mr. Bhimsen Sachar has agreed to go to Ceylon. He can tell the Government of India the problems that face our countrymen there unhampered; he can talk to the dignitaries there both in official and in non-official life and help in mitigating the hardships of our people in that beautiful island, so closely knit to us by a thousand traditions, beliefs and stories.

He will have no Chief Minister to worry him.

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all the time. The Government at Delhi will give full consideration to the views he expresses and the suggestions he makes. Moreover, in Delhi he will get the seat at the table of the President and others that is prescribed for him without the heartbreaks that Governors have to suffer.

If however he insists on the status of a Governor even as High Commissioner Mr Sachar is inviting trouble on himself socially which may badly react on his political work and reduce his usefulness which I think in the present circumstances, can be very great indeed.

GOVERNORS' EMBARRASSMENTS

SINCE the earlier chapters were written, two events have happened which have brought the position of Governors very much to the fore, and which require careful thought and scrutiny.

One is the resignation, more or less in disgust, of Shrimati Vijaya Lakshmi Pandit from the Governorship of Maharashtra, and the other the resignation of Shri Ajit Prasad Jain from the Governorship of Kerala in very peculiar circumstances. Mrs. Pandit has expressed her views in an article that has been widely published in the press. She seems clearly to think that the office of Governor is entirely useless and should be abolished. She feels that the only thing that can induce a person to accept a Governorship is the salary that it carries. She is dissatisfied with almost everything that the Governor and his Raj Bhavan stand for. It would indeed be a pity if

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any office is maintained in a democracy that serves no useful purpose, and it will be a greater pity if the only thing that can induce any person to accept the office is its salary.

I have already explained that I do not regard the office of Governor as at all useless. He has to fulfil some very definite purposes which have to be fulfilled in any case whether they are done so by a functionary called Governor or by any other nomenclature. Mrs. Pandit also thinks that the office of the Comptroller of the Raj Bhavan establishment is not wanted, as there is nothing to control. It should not be forgotten that the expense incurred on a Raj Bhavan may extend to quite Rs. 15 lakhs a year, and if there is no Comptroller, there can be much confusion. She has also many minor objections to which I need not refer, but one is inclined to ask as to how the purposes that a Governor fulfils inasmuch as he is the watch-dog of the interests of the Centre vis-a-vis the happenings in the State; and of the State vis-a-vis the Centre, will be fulfilled. Then the Governor, as I have pointed out, has to represent the State before distinguished foreigners. Some-

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body will have to do it. Mrs. Pandit does not say who could do so. It must also not be forgotten that sometimes circumstances arise because of which the Centre has to suspend the Constitution in a State. The Governor very much comes in the picture then. One would like to know who would fulfil the necessary functions if the Governor is not there.

The other incident is the resignation of Shri Ajit Prasad Jain. The circumstances were peculiar and are well-worth repetition. Mr. Jain having been a very active and promising Congressman, got interested in the election of the Prime Minister on the sad and sudden death of Shri Lal Bahadur Shastri. Though Governor and as such above party politics, he took active part in canvassing for Shrimati Indira Gandhi for the Prime Ministership as against Shri Morarjibhai Desai, the other candidate for the office. Shri Jain realised the anomaly of his position and sent in his resignation.

It naturally takes some time for a resignation to be accepted and a successor appointed. So despite Mr. Jain's participation in the election of

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the new Prime Minister, he continued to be Governor, and it was some time later that he was relieved of his office. It must not be forgotten that the Constitution of Kerala had been suspended, and the Governor was in executive charge of the State during Mr. Jain's Governorship. He was thus not a mere constitutional Governor, but was in active charge of affairs. His responsibility, therefore, was the greater.

It is difficult to throw away suddenly the habits of a life-time ; and it is not surprising that a person of Mr. Jain's status felt that he should take a proper and prominent part in the election of the new Prime Minister. It is also not surprising that he should have forgotten for the moment the limitations that his office imposed upon him. Still it cannot be denied that as long as any one is in any particular office however irksome its limitations may be, he has to submit to them. Though one can sympathise with Mr. Jain, one cannot help feeling that it was not proper on his part to participate in controversial politics while he held the office of Governor. He has been very severely criticized in the press for what he did, and

he has also explained his own position.† Still the fact remains that constitutionally he could not take interest in party politics while he held the office of Governor. He could have done so only after he had been relieved from the office. Perhaps time was pressing, but he should have taken steps to be relieved before he plunged in the fray. As the convention has grown—though I think it is a bad one—that Chief Justices are appointed temporarily to take charge of Governorships when they suddenly fall vacant, it could not have been difficult to accommodate Mr. Jain if he had taken steps in time.

It is but right that Governors should be drawn from public life. It would be a good precedent if Central Ministers are sent at the end of their term of office—and not when they are defeated at the polls—to be Governors. A Governorship should be really the last lap on the journey of a politician. The only other office that he could fill would be that of Vice-President and President after having been Governor. If this convention is recognised,

† In this connection the Editorial from the *Statesman* and Mr. A. P. Jain's reply to it are reproduced at the end of the Chapter.

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then the Central Minister who later becomes Governor, will cast all his politics aside and take the place of an elder statesman who will be placed in the high position of a Governor, and looked up to by all parties as their friend and well-wisher. If Governors can later become Ministers or hold other official positions, then the dignity of the office is marred.

I have personally always pressed that in the warrant of precedence, a Governor should rank with a Central Cabinet Minister if he is not given a higher place as I think he should be. It is utterly wrong to place the Governor, as he is placed to-day, in a lower position than that of a Union Minister. He must, in any case, forget his politics and so conduct himself that all parties should be able to regard him as the common head belonging to all. I know it is difficult, but that has got to be done if our Democracy and our Constitution are to function properly and well. I know of one Governor who thought he could continue to be a member of the All-India Congress Committee even as Governor. I know of other Governors who used to go to their States and

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undertake political tours. In all such cases, the President—even the very mild, gentle and gracious Dr. Rajendra Prasad—had to intervene; and though he himself had been a most prominent and a most respected leader of the Congress, he had to tell the Governors concerned that they should not indulge in politics. The Governors could not keep such restrictions on themselves, and they resigned.

It is a pity that though 18 years have passed since we attained freedom and gave ourselves the status of a sovereign democratic republic, we have not been able to evolve healthy conventions for various situations in life. It is time that we did so for we have all to behave with becoming decorum and decency, and give cause to no one to think that we are not conducting ourselves as we ought to do. The Governor's office is one of the important offices in our Constitution, and those who go to them, ought clearly to know how and where they stand. They have to maintain dignity and grace if the office is to fulfil the purpose for which it has been established. If, however, that is not possible, then it would be best to abolish the office.

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of Governors and entrust his duties to some other functionary though I myself have serious doubts whether any one not called Governor, can do exactly what the Governor is expected and required to do.

GOVERNORS' EMBARRASSMENTS

Appendix

Under the heading 'Impropriety Plus', *The Statesman* wrote editorially on Jan. 22, 1966 :

'It is difficult to find any mitigating circumstances in the affair of Mr. A. P. Jain's resignation from the Governorship of Kerala, except its prompt acceptance by the President. His resignation had been submitted—according to Mr. Jain—when he decided to support actively Mrs. Indira Gandhi for the Prime Ministership. The precise date is not the only obscurity in the whole affair about which the public would like to know more. That the announcement came after Mrs. Gandhi had been safely and comfortably elected is itself capable of giving rise to misgivings. That Mrs. Gandhi would have won handsomely without the aid of Mr. Jain's support adds to the dubiousness of the entire proceedings. The fact remains that Mr. A. P. Jain was canvassing for a contender in the contest for the Prime Ministership while still the Governor of a State ; if this is not a deplorable departure from the non-existent but widely understood code of conduct for Governors, it would be interesting to know what it is.

'Mr. Jain crowned his grave impropriety with something indistinguishable from irresponsibility. He took the plane to Delhi at a time when the rice ration for the people of Kerala had come down to four ounces a day. which is well below subsistence level. Distress was spreading fast ; and this was

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the moment chosen by Mr. Jain, the chief executive under President's Rule, for political work in the capital ; not even party political work but partisan political work. At his Press conference on Thursday there was not the slightest expression of regret, not even the suggestion of an awareness that, by his manifestly ungubernatorial behaviour, he had laid himself open to public reproof. Mr. Jain's resignation has been accepted by the President ; this alone hardly matches the offence. The least that the Congress Party, of which he claims to be a humble worker, should do is to register its total disapproval of Mr. Jain's conduct. Others should not need to be told that, by his action, Mr. Jain has rendered himself disqualified to be considered for any responsible post, political or administrative, during the rest of his career, such as it may be. He has forfeited popular confidence ; so will those who condone his most reprehensible behaviour.'

The following was Mr. A. P. Jain's reply to it which appeared in *The Statesman* of Jan. 28, 1966 :

'Sir,—In your leading article 'Impropriety Plus' (January 22-23) you have failed to keep up the high journalistic traditions of *The Statesman* by being less than fair to me. Would it be too much for me to request you to publish this letter in your columns ?

'Let me give you the background of the circumstances under which I accepted the office of the Governor of Kerala. Early in January, 1965, the late Prime Minister, Mr. Lal Bahadur Shastri, offered me the Governorship and for full three months I went on resisting. It was only after the issue of the second proclamation imposing President's Rule at the

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end of March that the late Prime Minister appealed to me in the name of the nation to accept the office. I could not say "no", but I made it clear that well before the General Elections I would be laying down the reins of office to re-enter politics. In my several Press conferences I restated the position. Thus, it would be seen that the politician in me was not dead.

'No one who sits in the air-conditioned and glass-panelled office can understand the emotions and the impulses of a person who has spent more than 45 years of his life in active politics. When major political decisions are involved such a person cannot afford to be a mere spectator. If any mistake was committed, it was at the time of my appointment and what has followed is a corollary.

'I agree with you that it is time that the Union Government should decide whether to appoint as Governors politicians, and in particular active politicians like me. You are correct when you say that Mrs. Indira Gandhi did not need my support. She would have in any event been elected by a good majority. However, I wanted to be a part of a major political decision just as drops of water want to share the greatness of the ocean.

'You will agree that so long as alternative names are in the field, as it was in this case, Mr. Gulzarilal Nanda, Mr. Y. B. Chavan and Mrs. Indira Gandhi, no one can do active electioneering. On January 16, Mrs. Gandhi alone was left in the field. I had to decide about my attitude and having decided to support her candidature openly, I sent my resignation on the 17th instant which was readily accepted by the President and passed on to the Home Ministry. If the Home Ministry had issued a Gazette Notification immediately, much of the criticism

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could have been avoided.

'There is no uniform code of conduct for Governors. In America the Governors actively participate in the Presidential election. Under the British pattern the office of the Governor is gubernatorial. However, it is a moot question whether a functioning Governor, who takes political decisions and participates in political discussions, as I have been doing in the various committees and conferences of the Union, should not be treated more like an American Governor. I confess that I was not quite clear on the point and that was the reason why immediately after taking a decision to actively participate in the election, I tendered my resignation to the President.

'May I add that there are a number of MPs and politicians who have been my co-workers and seek my advice on major matters. They started coming to me and I could not deny them the benefit of my advice. As it is I have received numerous telegrams and letters welcoming my decision to relinquish the office of Governor. You say that I have lost popular confidence ; but I want you to come down to Kerala and confirm whether the overwhelming majority of the people still love and respect me. I make bold to say that I have stood by them.

'Your charge that I failed in my duty during the food crises is based on ignorance. The States do not deal in the matter of food with one another direct and when supplies are involved decisions can be taken only at Delhi. It was due to my efforts that the rate of daily supplies from Madras and Andhra was raised from 1,400 tonnes per day to 2,500 tonnes, and fresh supplies of 15,000 tonnes from Orissa, 10,000 from

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Punjab and 5,000 from abroad were promised. As I write to you my officers are in Delhi negotiating increase in supplies.

'As regards the impropriety of my action, it has to be judged by the Union Government. If they thought that my actions were so unworthy as you think they should not have requested me to continue, even though temporarily, to deal with an unprecedented situation where all the political parties, including the Congress, have decided to observe what they call the Kerala Bundh.'

'Opinions on such matters would always differ and you would be quite justified in holding a contrary opinion. But the tone and the tenor of your editorial, I have no doubt, are not befitting *The Statesman*.'

Trivandrum,
Jan. 25.

Yours, etc.,
AJIT PRASAD JAIN.

GOVERNORS AND THE LEGISLATURE

A PROBLEM has been raising its ugly head for some time past, of which no one could have had any idea at the time our Constitution was drafted. The trouble really began soon after the first general elections under Swaraj in 1952 I happened to be the Governor of Madras at the time ; and when I went to address the joint session of the legislature as the Constitution requires, Shri T. Prakasam got up to protest against the formation of the Congress Government in the State. He was wanting himself to be invited to be the Chief Minister as he said he had formed a new party which had more members than the Congress had. This party was constituted after the results of the elections had been declared, and I was definitely of the opinion that the largest party as it was before the elections, should be asked to form the

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Government ; and not till it was defeated, should there be any thought of forming the Government of any other party that might be established after the elections. Mr. Prakasam spoke rather bitterly both against me as Governor, and Shri C. Rajagopalachariar, the Chief Minister. He stood up as I got up to speak. When he started speaking, I sat down. After his speech, he along with his followers, walked out of the Chamber. I then made my speech. The matter ended there.

The situation at that time was not so bad as it has lately become. Governors are disturbed when they get up to speak to the legislature as the Constitution requires them to do. The West Bengal Governor, Kumari Padmaja Naidu having been so disturbed, left the Chamber, her speech being taken as read. The Rajasthan Governor, Shri Sampurnanand being disturbed, asked the Marshal to clear the Chamber of the members who were causing disturbance. There has been a heated controversy as to whether the Governor has or has not the right to expel members of the legislature in this manner. It has been said that he has no authority in the Chamber which belongs.

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to the Speaker. It has been suggested that the President should ask for the opinion of the Supreme Court on the subject. The matter has been discussed both in the State and the Central legislatures.

According to the Constitution, the President at the Centre and the Governors in the States open the legislative session with a speech which is prepared for them by the Ministry. This speech surveys the general situation in the country or the State, and gives an idea of what Government proposes to do. The occasion is an important and a solemn one. It was natural that it should be taken for granted that members of the legislature will extend to the President or the Governor every respect, and listen to him in silence so that they themselves may know the policies of their Government for the future conduct of affairs. We have taken the system from the British Constitution where the Sovereign opens Parliament in great state, and no one thinks of disturbing him or her, however angry the opposition may be with the government. Our Constitution-makers had every reason to think that we would behave likewise,

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and so no provision was made for any mishap on the occasion.

As however things have not gone along the expected lines, it is time that there should be a clarification of the situation. Where there is only one House, the Speaker is the chief. Where however there are two Houses—the Upper and the Lower—the President or the Governor is accompanied on the dias by both the Speaker of the Lower House and the Chairman of the Upper House. It should also be remembered that this particular function, namely, the opening of the legislature by the President or the Governor, is not a part of the proceedings of either the Upper or the Lower House. It stands apart by itself. Though the speech is printed in the minutes of both the Houses, the same is not supposed to form a part of the body of the proceedings of the House. I remember that I raised this point in the old Central Legislative Assembly at Delhi, and said that as the speech of the Viceroy was no part of the proceedings of the House, it should not be printed along with the usual proceedings. If I remember aright, the President of the Assembly,

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Sir Abdur Rahim said that it was a convention that the proceedings were so printed, but that they were really no part of the proceedings of the House as such.

The situation being as it is, the Constitution should now make it clear as to who is the Presiding Officer at the time that the President or the Governor is making his speech. It seems almost undignified for the President or the Governor to take charge of the situation and turn out members with the help of the Marshal of the House if they create any trouble. It would perhaps be best to regard the Speaker to be incharge when there is only a single-Chamber legislature, and the Chairman of the Upper House to be incharge when there is a bicameral legislature. He should be responsible for the maintenance of order.

It is indeed a pity that such situations should arise requiring detailed regulations. It is best to have healthy conventions like they have in the British Parliament, with which everybody should regard himself bound even when passions are high and controversial matters are to the fore. If however we are not willing to evolve healthy conven-

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tions and to abide by them, we shall have to have rules and regulations. There is no escape. In the light of what has happened, it is time that, if necessary, the Constitution should be amended and the position clarified. If it is felt that in the circumstances, it would be difficult to control the House despite all the laws that we may make, perhaps the Constitution may be so amended that it may not be necessary for the President or Governors to address the legislature. At best, it is all only a ceremonial function at which the Prime or the the Chief Minister speaks through the mouth of the President or the Governor. It can easily be arranged for the Chief Minister himself in the Lower House and a senior minister in in the Upper House, to read out a speech at the beginning of the session, to tell the members what the policies of the Government are and what their proposals are likely to be. In any case, it is time that the matter was taken up serioully in hand, and something finally decided on the subject of the Governor's position *vis-a-vis* the legislature.

Appendix

THE CONSTITUTION OF INDIA PROVISIONS RELATING TO STATE GOVERNORS

153. GOVERNORS OF STATES : There shall be a Governor for each State :

Provided that nothing in this article shall prevent the appointment of the same person as Governor for two or more States.

154. EXECUTIVE POWER OF STATE :

(1) The executive power of the State shall be vested in the Governor and shall be exercised by him either directly or through officers subordinate to him in accordance with this Constitution.

(2) Nothing in this article shall—

(a) be deemed to transfer to the Governor any functions conferred by any existing law on any other authority ; or

(b) prevent Parliament or the Legislature of the State from conferring by law functions on any authority subordinate to the Governor.

155. APPOINTMENT OF GOVERNOR : The Governor of a State shall be appointed by the President by warrant under his hand and seal.

156. TERM OF OFFICE OF GOVERNOR :

(1) The Governor shall hold office during the pleasure of the President.

(2) The Governor may, by writing under his hand addressed to the President, resign his office.

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(3) Subject to the foregoing provisions of this article, a Governor shall hold office for a term of five years from the date on which he enters upon his office :

Provided that a Governor shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

157. **QUALIFICATIONS FOR APPOINTMENT AS GOVERNOR:** No person shall be eligible for appointment as Governor unless he is a citizen of India and has completed the age of thirty-five years.

158. **CONDITIONS OF GOVERNOR'S OFFICE:**

(1) The Governor shall not be a member of either House of Parliament or of a House of the Legislature of any State specified in the First Schedule, and if a member of either House of Parliament or of a House of the Legislature of any such State be appointed Governor, he shall be deemed to have vacated his seat in that House on the date on which he enters upon his office as Governor.

(2) The Governor shall not hold any other office of profit.

(3) The Governor shall be entitled without payment of rent to the use of his official residences and shall be also entitled to such emoluments, allowances and privileges as may be determined by Parliament by law and, until provision in that behalf is so made, such emoluments, allowances and privileges as are specified in the Second Schedule

(3A) Where the same person is appointed as Governor of two or more States, the emoluments and allowances payable to the Governor shall be allocated among the States in such proportion as the President may by order determine.

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(4) The emoluments and allowances of the Governor shall not be diminished during his term of office.

159. OATH OR AFFIRMATION BY THE GOVERNOR: Every Governor and every person discharging the functions of the Governor shall, before entering upon his office, make and subscribe in the presence of the Chief Justice of the High Court exercising jurisdiction in relation to the State, or, in his absence, the seniormost Judge of that Court available, an oath or affirmation in the following form, that is to say—

I, A. B. do Swear in the name of God
solemnly affirm
that I will faithfully execute the office of Governor (or discharge the functions of the Governor) of
(name of the State) and will to the best of my ability preserve, protect and defend the Constitution and the law and that I will devote myself to the service and well-being of the people of..(name of the State).'

160. DISCHARGE OF THE FUNCTIONS OF THE GOVERNOR IN CERTAIN CONTINGENCIES.: The President may make such provision as he thinks fit for the discharge of the functions of the Governor of a State in any contingency not provided for in this Chapter.

161. POWER OF GOVERNOR TO GRANT PARDONS, ETC., AND TO SUSPEND, REMIT OR COMMUTE SENTENCES IN CERTAIN CASES : The Governor of a State shall have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence against any law relating to a matter to which the executive power of the State extends.

163. COUNCIL OF MINISTERS TO AID AND ADVISE GOVERNOR :

(1) There shall be a Council of Ministers with the Chief Minister at the head to aid and advise the Gover-

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nor in the exercise of his functions, except in so far as he is by or under this Constitution required to exercise his functions or any of them in his discretion.

(2) If any question arises whether any matter is or is not a matter as respects which the Governor is by or under this Constitution required to act in his discretion, the decision of the Governor in his discretion shall be final, and the validity of anything done by the Governor shall not be called in question on the ground that he ought or ought not to have acted in his discretion.

(3) The question whether any, and if so what, advice was tendered by Ministers to the Governor shall not be inquired into in any court.

164. OTHER PROVISIONS AS TO MINISTERS :

(1) The Chief Minister shall be appointed by the Governor and the other Ministers shall be appointed by the Governor on the advice of the Chief Minister, and the Ministers shall hold office during the pleasure of the Governor :

Provided that in the States of Bihar, Madhya Pradesh and Orissa, there shall be a Minister in charge of tribal welfare who may in addition be in charge of the welfare of the Scheduled Castes and backward classes or any other work.

(2) The Council of Ministers shall be collectively responsible to the Legislative Assembly of the State.

(3) Before a Minister enters upon his office, the Governor shall administer to him the oaths of office and of secrecy according to the forms set out for the purpose in the Third Schedule.

(4) A Minister who for any period of six consecutive months is not a member of the Legislature of the State shall at the expiration of that period cease to be a Minister :

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(5) The salaries and allowances of Ministers shall be such as the Legislature of the State may from time to time by law determine and, until the Legislature of the State so determine, shall be as specified in the Second Schedule.

165. ADVOCATE-GENERAL FOR THE STATE :

(1) The Governor of each State shall appoint a person who is qualified to be appointed a Judge of a High Court to be Advocate-General for the State.

(2) It shall be the duty of the Advocate-General to give advice to the Government of the State upon such legal matters, and to perform such other duties of a legal character, as may from time to time be referred or assigned to him by the Governor, and to discharge the functions conferred on him by or under this Constitution or any other law for the time being in force.

(3) The Advocate-General shall hold office during the pleasure of the Governor, and shall receive such remuneration as the Governor may determine.

166. CONDUCT OF BUSINESS OF THE GOVERNMENT OF A STATE :

(1) All executive action of the Government of a State shall be expressed to be taken in the name of the Governor.

(2) Orders and other instruments made and executed in the name of the Governor shall be authenticated in such manner as may be specified in rules to be made by the Governor, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the Governor.

(3) The Governor shall make rules for the more convenient transaction of the business of the Government of the State, and for the allocation among Ministers of the said business in so far as it is not business with

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respect to which the Governor is by or under this Constitution required to act in his discretion.

167. DUTIES OF CHIEF MINISTER AS RESPECTS THE FURNISHING OF INFORMATION TO GOVERNOR, ETC.: It shall be the duty of the Chief Minister of each State—

- (a) to communicate to the Governor of the State all decisions of the Council of Ministers relating to the administration of the affairs of the State and proposals for legislation ;
- (b) to furnish such information relating to the administration of the affairs of the State and proposals for legislation as the Governor may call for ; and
- (c) if the Governor so requires, to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a Minister but which has not been considered by the Council.

174. SESSIONS OF THE STATE LEGISLATURE—PROROGATION AND DISSOLUTION :

(1) The Governor shall from time to time summon the House or each House of the Legislature of the State to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in the session and the date appointed for its first sitting in the next session.

- (2) The Governor may from time to time—
 - (a) prorogue the House or either House ;
 - (b) dissolve the Legislative Assembly.

175. RIGHT OF GOVERNOR TO ADDRESS AND SEND MESSAGE TO THE HOUSE OR HOUSES .

(1) The Governor may address the Legislative Assembly or, in the case of a State having a Legislative Council, either House of the Legislature of the State, or both Houses assembled together, and may for that purpose

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require the attendance of members.

(2) The Governor may send messages to the House or Houses of the Legislature of the State, whether with respect to a Bill then pending in the Legislature or otherwise, and a House to which any message is so sent shall with all convenient despatch consider any matter required by the message to be taken into consideration.

176. SPECIAL ADDRESS BY THE GOVERNOR :

(1) At the commencement of the first session after each general election to the Legislative Assembly and at the commencement of the first session of each year, the Governor shall address the Legislative Assembly or, in the case of a State having a Legislative Council, both Houses assembled together and inform the Legislature of the causes of its summons.

(2) Provision shall be made by the rules regulating the Procedure of the House or either House for the allotment of time for discussions of the matters referred to in such address.

188. OATH OR AFFIRMATION BY MEMBERS : Every member of the Legislative Assembly or the Legislative Council of a State shall, before taking his seat, make and subscribe before the Governor, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Third Schedule.

200. ASSENT TO BILLS : When a Bill has been passed by the Legislative Assembly of a State or, in the case of a State having a Legislative Council, has been passed by both Houses of the Legislature of the State, it shall be presented to the Governor and the Governor shall declare either that he assents to the Bill or that he withholds assent therefrom or that he reserves the Bill for the consideration of the President :

Provided that the Governor may, as soon as possible

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after the presentation to him of the Bill for assent, return the Bill if it is not a Money Bill together with a message requesting that the House or Houses will reconsider the Bill or any specified provisions thereof and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message and, when a Bill accordingly, and if the Bill is passed again by the House or Houses with or without amendment and presented to the Governor for assent, the Governor shall not withhold assent therefrom :

Provided further that the Governor shall not assent to, but shall reserve for the consideration of the President, any Bill which in the opinion of the Governor would, if it became law, so derogate from the powers of the High Court as to endanger the position which that Court is by this Constitution designed to fill.

201. **BILLS RESERVED FOR CONSIDERATION.** When a Bill is reserved by a Governor for the consideration of the President, the President shall declare either that he assents to the Bill or that he withholds assent therefrom.

Provided that, where the Bill is not a Money Bill, the President may direct the Governor to return the Bill to the House or, as the case may be, the Houses of the Legislature of the State together with such a message as is mentioned in the first proviso to article 200 and, when a Bill is so returned, the Houses shall reconsider it accordingly within a period of six months from the date of receipt of such message and, if it is again passed by the House or Houses with or without amendment, it shall be presented again to the President for his consideration.

202. **ANNUAL FINANCIAL STATEMENT :**

(1) The Governor shall in respect of every financial year, cause to be laid before the House or Houses of the

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Legislature of the State a statement of the estimated receipts and expenditure of the State for that year, in this Part referred to as the 'annual financial statement'.

(2) The estimates of expenditure embodied in the annual financial statement shall show separately—

- (a) the sums required to meet expenditure described by this Constitution as expenditure charged upon the Consolidated Fund of the State; and
- (b) the sums required to meet other expenditure proposed to be made from the Consolidated Fund of the State; and shall distinguish expenditure on revenue account from other expenditure.

(3) The following expenditure shall be expenditure charged on the Consolidated Fund of each State :—

- (a) the emoluments and allowances of the Governor and other expenditure relating to his office;
- (b) the salaries and allowances of the Speaker and the Deputy Speaker of the Legislative Assembly and, in the case of a State having a Legislative Council, also of the Legislative Council;
- (c) debt charges for which the State is liable including interest, sinking fund charges and redemption charges, and other expenditure relating to the raising of loans and the service and redemption of debt;
- (d) expenditure in respect of the salaries and allowances of Judges of any High Court;
- (e) any sums required to satisfy any judgment, decree or award of any court or arbitral tribunal;
- (f) any other expenditure declared by this Constitution, or by the Legislature of the State by law, to be so charged.

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203. PROCEDURE IN LEGISLATURE WITH RESPECT TO ESTIMATES :

(1) So much of the estimates as relate to expenditure charged upon the Consolidated Fund of a State shall not be submitted to the vote of the Legislative Assembly, but nothing in this clause shall be construed as preventing the discussion in the Legislature of any of those estimates.

205. SUPPLEMENTARY, ADDITIONAL OR EXCESS GRANTS :

(1) The Governor shall—

- (a) if the amount authorised by any law made in accordance with the provisions of article 204 to be expended for a particular service for the current financial year is found to be insufficient for the purposes of that year or when a need has arisen during the current financial year for supplementary or additional expenditure upon some new service not contemplated in the annual financial statement for that year, or
- (b) if any money has been spent on any service during a financial year in excess of the amount granted for that service and for that year

caused to be laid before the House or the Houses of the Legislature of the State another statement showing the estimated amount of that expenditure or cause to be presented to the Legislative Assembly of the State a demand for such excess, as the case may be.

(2) The provisions of articles 202, 203 and 204 shall have effect in relation to any such statement and expenditure or demand and also to any law to be made authorising the appropriation of moneys out of the Consolidated Fund of the State to meet such expenditure or the grant in respect of such demand as they have effect in relation to the annual financial statement and the expenditure mentioned therein or to a demand for a grant and the law to be made for the authorisation of appropriation of

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moneys out of the Consolidated Fund of the State to meet such expenditure or grant.

207. SPECIAL PROVISIONS AS TO FINANCIAL BILLS :

(1) A Bill or amendment making provision for any of the matters specified in sub-clause (a) to (f) of clause (i) of article 199 shall not be introduced or moved except on the recommendation of the Governor, and a Bill making such provision shall not be introduced in a Legislative Council :

Provided that no recommendation shall be required under this clause for the moving of an amendment making provision for the reduction or abolition of any tax.

(2) A Bill or amendment shall not be deemed to make provision for any of the matters aforesaid by reason only it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered, or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) A Bill which, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of a State shall not be passed by a House of the Legislature of the State unless the Governor has recommended to that House the consideration of the Bill.

213. POWERS OF GOVERNOR TO PROMULGATE ORDINANCES DURING RECESS OF LEGISLATURE :

(1) If at any time, except when the Legislative Assembly of a State is in session, or where there is a Legislative Council in a State, except when both Houses of the Legislature are in session, the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such

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Ordinances as the circumstances appear to him to require :

Provided that the Governor shall not, without instructions from the President, promulgate any such Ordinance if—

- (a) a Bill containing the same provisions would under this Constitution have required the previous sanction of the President for the introduction thereof into the Legislature ; or
- (b) he would have deemed it necessary to reserve a Bill containing the same provisions for the consideration of the President ; or
- (c) an Act of the Legislature of the State containing the same provisions would under this Constitution have been invalid unless, having been reserved for the consideration of the President, it had received the assent of the President.

(2) An Ordinance promulgated under this article shall have the same force and effect as an Act of the Legislature of the State assented to by the Governor, but every such Ordinance—

- (a) shall be laid before the Legislative Assembly of the State, or where there is a Legislative Council in the State, before both the Houses, and shall cease to operate at the expiration of six weeks from the reassembly of the Legislature, or if before the expiration of that period a resolution disapproving it is passed by the Legislative Assembly and agreed to by the Legislative Council, if any, upon the passing of the resolution or, as the case may be, on the resolution being agreed to by the Council ; and
- (b) may be withdrawn at any time by the Governor.

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Explanation—Where the Houses of the Legislature of a State having a Legislative Council are summoned to reassemble on different dates, the period of six weeks shall be reckoned from the later of those dates for the purposes of this clause.

(3) If and so far as an Ordinance under this article makes any provision which would not be valid if enacted in an Act of the Legislature of the State assented to by the Governor, it shall be void :

Provided that, for the purposes of the provisions of this Constitution relating to the effect of an Act of the Legislature of a State which is repugnant to an Act of Parliament or an existing law with respect to a matter enumerated in the Concurrent List, an Ordinance promulgated under this article in pursuance of instructions from the President shall be deemed to be an Act of the Legislature of the State which has been reserved for the consideration of the President and assented to by him.

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